

**REMARKS UNDER 37 CFR§ 1.111**

**Formal Matters**

Claims 1-3, 5-9, 14-16, 19 and 27-31 are pending after entry of the above amendments.

Claims 4, 10-13, 17-18 and 20-26 have been canceled without prejudice to the possibility of filing one or more continuing applications directed to the subject matter recited therein.

Claims 9, 15 and 19 are currently withdrawn from consideration by the Examiner.

Claims 1-3, 5-8, 14-16 and 27-31 were examined.

Claims 1-3 were allowed.

Claims 27-28 and 30-31 were objected to, but were indicated to contain allowable subject matter.

Claims 5-8, 14, 16 and 29 were rejected.

Applicants respectfully request reconsideration of the application in view of the above amendments and the remarks made herein.

No new matter has been added.

**The Office Action**

**Claims Rejected Under 35 U.S.C. Sections 102/103 - Jensen**

Claims 5-8, 14, 16 and 29 were rejected under 35 U.S.C. Section 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. Section 103(a) as being obvious over Jensen, U.S. Patent No. 3,572,326.

Regarding claim 5, the Examiner asserted, *inter alia*, that coupling 56 meets the recitation of "said coupling permitting rotation of said foot with respect to said at least one of the frame and first and second blades in one direction, and preventing rotation of said foot with respect to said at least one of said frame and the first and second blades in an opposite direction", because when coupling 56 is in an unlocked condition, at least one can rotate foot 48 in one direction, and then lock the rotation by coupling 56 to prevent rotation of foot 48 in at least an opposite direction.

Applicants respectfully traverse. It is respectfully submitted that coupling 56 either prevents rotation in both directions or allows rotation in both directions. There is no condition that coupling 56

can be placed in that allows rotation in one direction but prevents rotation in the opposite direction. To clarify the distinction of the present invention, claim 5 has been amended above to recite that rotation is allowed in one direction and, without any manipulation of the current configuration of the coupling that permits rotation in one direction, said coupling also prevents rotation in the opposite direction. It is respectfully submitted that Jensen does not teach or suggest this feature.

With regard to claim 14, the Examiner asserted, *inter alia*, that Jensen provides an actuator in the form of hexagonal head 67, a drive member 60/61 and a drive mechanism 64/65/66 and 58/59/60 to drive said second blade toward or away from said first blade.

Applicants respectfully traverse. Applicants note that claim 14 recites that said drive mechanism is interlinked between said actuator and said drive member, wherein actuation of said actuator moves said drive mechanism to drive said drive member. It is respectfully submitted that elements 60 and 61 are not a drive member as claimed. Rather, elements 60 and 61 of Jensen are a head and a sleeve used to clamp a surgical instrument, see column 4, lines 50-52. As such, it is respectfully submitted that claim 60,61 is not a drive member as claimed. Claim 14 recites, *inter alia*, that said drive member is configured to drive said second blade toward and away from said first blade. It is respectfully submitted that the clamp 60/61 is not configured to drive any components, but is rather configured to clamp the shaft of an instrument.

The Examiner's remarks about positioning element 35 at a position higher than that of element 34 are not understood, and appear to be speculative and unsupported by Jensen. Specifically, elements 34 and 35 have channels formed therein to receive curved members 18 and 22, which are substantially rectangular in cross-section. There is no disclosure by Jensen that elements 34 and 35 can pivot relative to members 18 and 22. Likewise, there is no disclosure that elements 34 and 35 can receive element 33 except in a situation where the rod 33 is perpendicular to the faces of the elements 34,35 where entered. Further, it is respectfully submitted that it would be disadvantageous to allow any of the aforementioned pivoting motions, as this would weaken the rigidity of the frame that Jensen provides. The frame needs to be rigid and stationary to support the instruments mounted thereon. Accordingly, it is respectfully submitted that it would not be possible to position element 35 at a position higher than that of element 34, as suggested by the Examiner, as rods 33, 42 must always remain perpendicular to components 18, 19, 22 and 23.

With regard to claim 29, the Examiner asserted that hexagonal head 67 (Fig. 3 of Jensen) is an actuator, 60,61 is a drive member and 64,65,66 and 58,59,60 are a drive mechanism to drive said second blade toward or away from said first blade.

Applicants respectfully traverse. It is respectfully submitted that knob 67 of Jensen is not an actuator for driving a second foot as claimed, but is only an actuator for locking or unlocking claim mechanism 60,61 to lock or unlock the shank 54 of pusher instrument 48. Actuation of actuator 67 does not drive instrument 48. Rather, instrument 48 must be pushed by the hand of a human user. To clarify this distinction, claim 29 has been amended above to recite that force applied through said actuator is applied to said at least one of said first and second blades to move said at least one of said first and second blades.

It is respectfully submitted that claims 6-8 and 16 each depend from one of independent claims 5 and 14 and therefore are allowable for at least the same reasons provided above with regard to claims 5 and 14, respectively.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 5-8, 14, 16 and 29 under 35 U.S.C. Section 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. Section 103(a) as being obvious over Jensen, U.S. Patent No. 3,572,326, as being inappropriate.

### **Allowable Subject Matter**

Applicants wish to extend their thanks to the Examiner for the indication of allowable subject matter of claims 27-28 and 30-31 and the allowance of claims 1-3.

### **Conclusion**

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

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The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number G UID-006CON5.

Respectfully submitted,

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